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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,737	04/11/2001	Karl Forster	38394.0100	3464

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EXAMINER

TO, BAOQUOC N

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 03/30/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/832,737

Applicant(s)

FORSTER, KARL

Examiner

Baoquoc N To

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/27/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-27 and 29-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-7,9-27 and 29-35 is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 02/27/04 for a Request For Continue Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 09/832707 is acceptable and a RCE has been established. An action on the RCE follows.
2. Claims 1-7, 9-27 and 29-35 are pending in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 9-27 and 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hugard et al. (US. Patent No. 5,745,669).

Regarding on claims 1, 13 and 21, Hugard teaches a computer, a method for protecting a target file located at a target location, comprising the step of:

Generating an archive having an archive file, wherein the archive file comprises a master copy of the target file (to make a back-up of the system configuration) (col. 4, lines 50-51 and col. 1, lines 40-67 to col. 2, lines 1-24);

detecting changes to the target file by periodically comparing to the archive file, wherein the comparison comprises comparing one of the contents, size, and data/time

of the target file to the corresponding archive file (col. 1, lines 40-67 to col. 2, lines 1-24); and

Hugard does not explicitly teach protecting, as necessary, the target file by replacing according to the comparison such that the target file is identical to the archive file, wherein the replacing occurs when the comparison indicates that the target file is not identical to the archive file. However, Hugard teaches "present invention provides a configuration recovery tool that automatically detects changes to files relating to a system's configuration, determines the need to create a copy of system configuration information, and assists in determining the need to undo or correct changes to a system's configuration" (col. 1, lines 50-51). Hugard suggest the undo process perform the same functionality of the claimed invention. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to include the undo process as taught by Hugard in order to restore the full and proper operation.

Regarding on claims 2, 14, and 22, Hugard teaches the archive comprises at least one file collection having the archive file (a list of configuration files) (col. 2, lines 29-30).

Regarding on claims 3, 15, and 23, Hugard does not explicitly teach the file collection comprises a current portion and a revision portion. However, Hugard teaches "the user may restore the old configuration if the computer system operates improperly" (col. 7, lines 3-4). The old configuration file is the current portion. In addition, Hugard teaches "save the new configuration and or continue to verify proper software operation" (col. 8, lines 63-65). These new file is a revision portion. Therefore, it would have been

obvious to one ordinary skill in the art at the time of the invention was made to include the current and revision in order to restored the proper files back into the system.

Regarding on claims 4, 16, and 24, Hugard teaches the revisions portion comprises at least one sub-division, wherein each sub-division represents a different revision of the archive file (col. 8, lines 63-65).

Regarding on claims 5 and 25, teaches the step of republishing (restore) the target file at the target location using a selected revision.

Regarding on claims 6, 17 and 26, Hugard teaches the archive further comprises a folder (list of files) (col. 2, lines 19-30).

Regarding on claims 7 and 27, Hugard does not explicitly teach the target file has a first set of associated file statistic and the archive file has a second set of associated file statistics, and wherein the step of periodically comparing comprises comparing the first set of associated file statistics to the second set of associated file statistic. However, Hugard teaches the changes in the files and restore the file according to the comparison of file attributes (col. 1, lines 40-67 to col. 2, lines 1-24). The file statistics are just files. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to include the undo in order to restores to the changed file.

Regarding on claims 9, 18, and 29, Hugard does not explicitly teach the archive file comprises a web site file. However, Hugard teaches the created copy of configuration files (col. 1, lines 40-67 to col. 2, lines 1-24). The created configuration files are the archive file comprises a web site file. Therefore, it would have been

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obvious to one ordinary skill in the art at the time of the invention was made to include the created configuration files as taught in Hugard in order to restore full and proper operation.

Regarding on claims 10 and 19, Hugard teaches updating the archive file of the archive (col. 8, lines 53-65);

Updating an update queue, wherein the update queue stores update information relating to the target file according to the update information in the update queue 9col. 8, lines 53-65).

Regarding on claims 11 and 31, teaches the step of updating the target file to match the archive file according to the update information in the update queue.

Regarding on claims 12 and 32, Hugard does not explicitly teach moving the target file from the target location to quarantine area if the step of comparing indicate that the target file differs from the archive file; and copying the archive file from the archive to target file at the target location to synchronize the target location with the archive. However, according to Hugard the copy of the configuration of file of the system in created for a backup and in the case of the new update does not working properly, undo the changes by restoring the created copy back to the system (col. 1, lines 40-67 to col. 2, lines 1-24). Hugard's system needless to move the target files but it still performs the same function as the protecting by replacing the original file. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to include the undo the changes without moving the file as taught in Hugard in order to store full and proper operation back to the system.

Regarding on claims 33-35, Hugard does not explicitly teach the comparison comprises comparing a hash of the contents of the target file to a hash of the contents of the corresponding archive file. However, Hugard teaches "the comparison involves a comparison of the name, size, modification data and attributes of the selected configuration file" (col. 1, lines 1-24). The hash of the content is one of the comparison attributes as mention above. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to include the one of the comparison attributes as taught by Hugard in order to undo the change by restoring the created copy of the original file configuration.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Orcutt (US. Patent No. 6,185,575 B1) Date: 02/06/04

Orcutt is the backup and restore system that can restore the primary copy according to the needed files to be restored. This can teaches the main idea of the invention which may lack of some of the functionality of the claimed invention; however, it can be used with other references to reject the claimed invention. (103 rejection)

Maffezzoni et al. (US. Patent No. 6,289,426 B1) Date: 09/11/2001

Maffezzoni is the backup system that can restore the hard disk with the operating system and data files to their current states. Maffezzoni suggest the idea of the invention; however, some of the elements can be taught by others which suggest for combination rejection of 103 (a).

Goodman et al. (US. Patent No. 6,625,703 B1) Date: 09/23/2003

Goodman is the backup and restored which implements that the only valid copy can be restored. Goodman also utilizes the comparison of timestamp in the backing up and the same as for restored. Furthermore, this is an automatic backup and restore system which does not require manual intervention. This can be singularly rejected the claimed invention as of 103 (a).

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baoquoc N. To whose telephone number is (703) 305-1949 or via e-mail BaoquocN.To@uspto.gov. The examiner can normally be reached on Monday-Friday: 8:00 AM – 4:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached at (703) 305-9790.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231.

The fax numbers for the organization where this application or proceeding is assigned are as follow:

(703) 872-9306 [Official Communication]

Hand-delivered responses should be brought to:


Crystal Park II
2121 Crystal Drive

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Arlington, VA 22202
Fourth Floor (Receptionist).

Baoquoc N. To
March 15, 2004


JEAN M. CORRIELUS
PRIMARY EXAMINER